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Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights

Report by Ms. Fatma-Zohra Ouhachi-Vesely, Special Rapporteur on toxic wastes, submitted pursuant to Commission resolution 2001/35

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Summary

The present report is submitted pursuant to resolution 2001/35 of the Commission on Human Rights. It comprises six chapters relating to the activities of the Special Rapporteur; the observations, comments and information submitted by Governments and other sources; new cases; follow-up of cases included in previous reports; cooperation with treaty monitoring bodies; and conclusions and recommendations.

Replies to the letter sent by the Special Rapporteur have been received from the Governments of Morocco, Mauritius, Belarus, Venezuela, Argentina, the Netherlands and the United Kingdom, and from a number of governmental and non-governmental organizations.

The Special Rapporteur has received 16 cases submitted by Venezuela. The dossier sent by this country reveals the interest aroused by this question among the authorities and in civil society, and also the efforts made to enable the victims and rightful claimants to initiate a complaint procedure through a body which has been given competence for this purpose.

Another chapter contains summaries of the communications concerning cases mentioned in previous reports and, where appropriate, the solutions found for problems. However, the Special Rapporteur draws attention to the absence of tangible results, except in the case of the Haitian children in which there was an amicable settlement. She does not intend to express an opinion on this until she has acquainted herself with its content.

In the final chapter, the Special Rapporteur recalls that, in her previous reports, she presented a number of analyses on major trends, the characteristics of illicit traffic, multinational corporations, the implications for the enjoyment of human rights, and conclusions and recommendations which remain valid.

She notes the seriousness of the problems relating to the question of pesticides and persistent organic pollutants (POPs). She calls for financial contributions to permit the implementation of the programme of action adopted by the First Continental Conference for Africa on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes and their Prevention, held in Rabat from 8 to 12 January 2001.

She considers that the adoption of international conventions, which are necessary and useful, is not sufficient to effectively combat illicit traffic, prosecute and punish the perpetrators, compensate the victims and rehabilitate the environment. She stresses the need to combat impunity, to provide the victims with effective remedies and fair and equitable compensation, and to make transnational corporations subject to an international code of conduct.

The Special Rapporteur encourages States to describe their national experience and emphasizes the importance of field missions.

Introduction

1. In 1995, at its fifty-first session, the Commission on Human Rights adopted its first resolution specifically concerning the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights resolution 1995/81, confirmed by Economic and Social Council decision 1995/288 of 25 July 1995. Pursuant to that resolution, Ms. Fatma-Zohra Ksentini (at present Ms. Ouhachi-Vesely) (Algeria) was appointed Special Rapporteur. The Commission has since approved a resolution each year on the dumping of toxic wastes (1996/14, 1997/9, 1998/12, 1999/23, 2000/72 and 2001/35). The Special Rapporteur has submitted a preliminary report (E/CN.4/1996/17) and progress reports (E/CN.4/1997/19, E/CN.4/1998/10 and Add.1, E/CN.4/1999/46, E/CN.4/2000/50 and E/CN.4/2001/55 and Add.1). She has also visited Africa, South America and Europe: in 1997, she visited South Africa, Kenya and Ethiopia (see E/CN.4/1998/10/Add.2); in 1998, Paraguay, Brazil, Costa Rica and Mexico (see E/CN.4/1999/46/Add.1); and in 1999, the Netherlands and Germany (see E/CN.4/2000/50/Add.1). She made no visit in 2000. A mission to the United States of America is scheduled for 3-14 December 2001; a report on this mission will be given in an annex to this report.

2. In its resolution 2000/72 of 26 April 2000, the Commission invited the Special Rapporteur to include in her report (a) comprehensive information on persons killed, maimed or otherwise injured in developing countries as a result of the illicit dumping of toxic products; (b) the question of the impunity of the perpetrators of these heinous crimes, including racially motivated discriminatory practices, and recommendations regarding measures to end impunity; (c) the question of rehabilitation and assistance to victims; and (d) the scope of national legislation in relation to the transboundary movement and dumping of toxic and dangerous products and wastes. In its resolution 2001/35, the Commission reiterated those requests and invited the Special Rapporteur to include in her report to the Commission at its fifty-eighth session comprehensive information on the question of fraudulent waste-recycling programmes, the transfer of polluting industries, industrial activities and technologies from the developed to developing countries, ambiguities in international instruments that allow illegal movement and dumping of toxic and dangerous products and wastes, and any gaps in the effectiveness of the international regulatory mechanisms.

3. On 3 August 2001, a note verbale was addressed to all Governments, the relevant United Nations bodies, the specialized agencies and non-governmental organizations requesting information and inviting comments on the relevant provisions of resolution 2001/35. As at 20 November 2001, replies had been received from the Governments of Morocco, Mauritius, Belarus, Venezuela, Argentina, the Netherlands and the United Kingdom.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

4. In preparation for her future field missions in 2002/2003, the Special Rapporteur addressed a letter to several Governments expressing her interest in conducting such missions in the North American, European and Asian-Pacific regions, following her visits to Africa and Latin America. The letter was addressed to the Governments of Australia, Canada, China,

the Czech Republic, India, Japan, Lithuania, Romania, Slovakia, Slovenia and the United Kingdom. In reply to the Special Rapporteur's communication, the Governments of Canada and Slovakia indicated that they were considering her request and required further information concerning the proposed date for the mission.

5. The Special Rapporteur attended the 7th meeting of special rapporteurs, which was held in Geneva from 18 to 22 June 2001.

6. The Special Rapporteur participated in the First Continental Conference for Africa on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes and their Prevention, convened by the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in Rabat from 8 to 12 January 2001. She has been invited to participate in the seminar on the environment and human rights, scheduled for 14-16 January 2002, to be organized jointly by the Office of the High Commissioner for Human Rights and the United Nations Environment Programme, in conformity with decision 2001/111 of the Commission on Human Rights.

II. OBSERVATIONS, COMMENTS AND INFORMATION SUBMITTED

A. Governments

1. Morocco

7. Following Morocco's ratification of the Basel Convention in 1995, the Department of the Environment prepared legislation relating to the management and disposal of harmful wastes. In the absence of techniques for the environmentally sound treatment of hazardous wastes, the bill clearly prohibits the import and transit of hazardous wastes, and establishes an authorization system for the export of wastes through an insurance policy or a financial guarantee. The bill also lays down for penalties ranging from a fine to imprisonment for persons contravening the law.

8. The Department of the Environment has proposed to the Special Rapporteur that she should include in her next report the technical and financial needs of African countries in the light of the execution of the action programme which emerged from the First African Conference on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes and their Prevention.

9. As to the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention) and the Stockholm Convention on Persistent Organic Pollutants, Morocco considered that it was also advisable for the Special Rapporteur to mention in her report the lacunae in certain provisions contained in the two conventions. In the first, there were no provisions prohibiting illicit traffic in hazardous products, and in the second no provisions dealing with liability and compensation in the event of the use of one of the 12 POPs which are not the subject of a derogation for the party concerned.

2. Belarus

10. Belarus has been party to the Basel Convention since 1999, and is currently preparing to ratify the 1997 Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

11. At the national level, the Government referred to several Acts governing the question of toxic waste in the domestic legislation including the Wastes Act of 25 November 1993, as amended and supplemented (except for radioactive waste); the Act on the Legal Regulations concerning Areas Subjected to Radioactive Contamination as a Result of the Disaster at the Chernobyl Nuclear Power Plant, of 12 November 1991, as amended and supplemented; the Sanitary and Epidemiological Welfare of the Population Act of 23 November 1993, as amended and supplemented; the Radiation Safety of the Population Act of 5 January 1998; and the Industrial Safety of Dangerous Production Facilities Act of 10 January 2000.

3. United Kingdom of Great Britain and Northern Ireland

12. The Special Rapporteur received several publications from the Government, issued by the Environment Agency and the Department of the Environment, Transport and the Regions. The documentation contained the "Management Plan for Exports and Imports of Waste, Review of the Special Waste Regulations", "Trans-Frontier Shipment Guidance on the Assessment of Financial Guarantee", "Trans-Frontier Shipment Guidance on the Assessment of Financial Guarantee", and several other guidance notes. The Special Rapporteur was also provided with a press release of November 2000, concerning the case of a British company ordered to pay a considerable fine for illegally importing solvent waste from Sweden without correctly notifying the authorities.

13. The documents will serve as a basis for the analysis of the cases involving the United Kingdom and reported to the Special Rapporteur (see summary of cases in document E/CN.4/2001/55/Add.1) and for the preparation of a possible future mission to the country.

4. Netherlands

14. The Government of the Netherlands pointed out that the supervision and control of shipments within, into and out of the European Community were regulated by European Regulation No. 259/93/EEC, which covered several international conventions relating to waste shipment.

15. The Government's report provided a list of cases of illegal traffic in toxic wastes from the Netherlands to other countries, illegal import of wastes into the Netherlands and illegal transit through the country which were intercepted in 1999 and 2000. Most of the cases concerned shipments of wastes within the European Union.

16. In 1999, two attempts at the exportation of waste to developing countries (electronic scrap to China and Côte d'Ivoire) were prevented by enforcement action. A few traders tried to circumvent the very strict rules of the European Community by using a European harbour outside the national territory for exports to developing countries. In both cases the intended export wastes were intercepted in Belgium.

17. In 2000, the competent authorities in the Netherlands and Belgium were requested to take back a mixture of plastic and paper exported to Taiwan. The export of waste paper was reportedly authorized as part of the green list of waste within the Organization for Economic Cooperation for Development (OECD) and according to the Basel Convention (annex IX). However, in that particular case, the exported papers were said to contain plastic waste that made it non-recyclable. The case of Taiwan did not concern a hazardous waste and no harm to the people was reported.

5. Mauritius

18. The Mauritian authorities emphasized that the country was a party to the Basel Convention and that its Hazardous Waste Regulation Act (1991) would come into effect in April 2002. Moreover, a Dangerous Chemicals Bill was reportedly under preparation to cover all aspects of transport, storage and safety of dangerous chemicals. The Government stated that Mauritius was not subjected to the illicit movement or dumping of toxic or dangerous products, there were no cases of harm to individuals as a result of such movement, neither was there any crime committed in this field.

6. Argentina

19. The Government of Argentina called the attention of the Special Rapporteur to several relevant pieces of legislation regarding hazardous wastes, including Act No. 24,051 of 1991, which provides for sanctions for those responsible for the illegal introduction or deliberate disposal of hazardous waste at the national level. Reference was also made to Act No. 23,922 on the ratification of the Basel Convention. According to the Secretariat for Sustainable Development and Environmental Policies of the Ministry of Social Development and Environment, no cases of illicit movement of hazardous waste have been registered since the Secretariat was established in 1995. At the regional level, Argentina provided assistance to Paraguay regarding the underground disposal of waste in that country. The Government was of the view that, despite improvements achieved by the Basel Convention with regard to the mechanisms on hazardous waste management control, the countries of the region remained vulnerable. Therefore, it was important to maintain regular management, monitoring and training activities through the regional and subregional centres of the Basel Convention.

7. Venezuela

20. The Government of Venezuela submitted the following cases dealt with by the Special Ombudsman's Office with National Jurisdiction for the Environment and for the purpose of increasing awareness of the environmental situation in Venezuela.

21. The Special Ombudsman's Office was requested by the International Affairs Department to provide information on cases relating to: (a) the illegal traffic and dumping of toxic products and wastes; (b) fraudulent waste-recycling programmes; and (c) polluting industrial and technological activities of transnational industries which generated wastes from developed to developing countries.

22. The Government of Venezuela provided the Special Rapporteur with summaries of the cases, details on related information reported in the national newspapers, graphic representations of the geographical distribution of cases, and copies of press clippings,[1] covering the period May to mid-September 2001.

23. The Cases reported by the Government of Venezuela are summarized below:

1. **Place: Jesús María Semprún municipality, Zulia State.**

Facts: The Tarra river is polluted by oil and the water the population drinks is affected.

Complainant: Duanela Parra, President of the Environment and Environmental Resources Committee of the National Assembly.

Body responsible: Tecnopetrol, an Argentine company responsible for breaking the pipeline.

Pollutant: Oil.

2. **Place: Santa Cruz, Lamas municipality, Aragua State.**

Facts: Storage of toxic wastes near Taiguaiguay lagoon, especially El Guaril.

Complainant: Diógenes Núñez, anaesthesiologist at Los Samanes hospital.

Body responsible: The Girardot mayor's office is allegedly involved in the dumping of these wastes, as is a "well-known company" located in the San Vicente, Maracay, industrial area.

Pollutant: Lead, aluminium, electrodes.

3. **Place: Caripito, Monagas State.**

Facts: Damage to the San Juan river and, consequently, the port of Caripito, caused by oil drilling.

Complainant: Governor Guillermo Call.

Body responsible: PDVSA (Petróleo de Venezuela).

Pollutant: Oil.

4. **Place: Cambalache community, Bolivar State.**

Facts: Fifteen years ago, the company created a red pool in which to dump toxic wastes, but when it rains, the polluted water seeps into Cardonal pool, killing flora and fauna, causing disease and even killing members of the indigenous population. The activities of Compiedra, a rock-crushing company, are said to be causing respiratory illnesses in the population.

Complainant: Isabel Romero, who lives in the community.

Bodies responsible: Bauxilum, Compiedra.

Pollutant: Not specified. Rock dust.

5. **Place: Los Pocitos, Simón Bolívar municipality, Zulia State.**

Facts: Fourteen artisanal fishermen found an oil slick about 600 m from shore which deprived them of their livelihood and prevented them from fishing.

Complainant: Eudre Somoza, Civilian Fisheries and Tourism Association.

Body responsible: "Two Triton-type barges located in Tia Juana waters" (PDVSA).

Pollutant: Oil.

6. **Place: Güere industrial area, La Julia sector, Mariño municipality, Aragua State.**

Facts: With the support of the Fire Brigade, the Environment Ministry (Ministerio del Ambiente y de los Recurses Naturales, MARN) and the Mariño mayor's office, members of the Environmental Monitoring Department of National Guard Detachment No. 21 searched the premises of Induquímica, a paint company, and found about 5,000 receptacles containing toxic wastes, some of which was spilling onto the floor.

Complainant: Mayor Efrén Rodrigez.

Body responsible: Induquímica.

Pollutants: Lead, methane, phosphorous, zinc, aluminium and other products.

7. **Place: Los Tacarigua sector, Aragua State.**

Facts: Highly polluting toxic wastes from a factory which makes insecticides with phosphates are being dumped in the sector's sewerage system; this also affects adjoining areas in Cagua.

Complainant: Orlando Rivero, President of the Environment Subcommittee, National Assembly.

Body responsible: Insecticide factory.

Pollutant: Phosphates.

8. **Place: Freites municipality, Anzoátegui State.**

Facts: When it rained, waste overflowed and was gradually dumped into a pit; it ended up in the Oritupano river, 1 km of which was affected.

Complainant: Neira Fuenmayor, MARN.

Body responsible: PDVSA.

Pollutant: Petroleum products.

9. **Place: Zulia State.**

Facts: There are 4,133 tons of dangerous goods stored in the port of Maracaibo, including toxic wastes, inflammable materials and explosives. Some 3,385 tons of highly dangerous goods are unloaded each month. Many importers conceal the content of their cargo. The majority of the reagents used in the oil industry are carcinogenic.

Complainants: Jazmin Lizcano, port authority. Victor Granadillo, coordinator of the Luz Analytical Instruments Laboratory.

Bodies responsible: PDVSA, importers, etc.

Pollutants: Various, including butadine.

10. **Place: Las Palmas housing estate, Cabimas, Zulia State.**

Facts: A contracting company was doing sandblasting work to remove corrosion from ships. Silicon oxide is used for this purpose and it is harmful to human beings because it easily gets into the lungs and causes illnesses such as pneumoconiosis and silicosis. A joint Fire Brigade-National Guard commission inspected the wharf and found that the company had built a silicon oxide storage tank. It ordered the demolition of the tank.

Complainants: Residents of the housing estate.

Body responsible: Sandblasting company.

Pollutant: Silicon oxide.

11. **Place: Camatagua, Aragua State. Tocuyito, Carabobo State. El Cenizo, Trujill State.**

Facts: About 11,000 drums full of toxic wastes (1,600 in Aragua, 6,500 in Carabobo and 1,600 in Trujillo) entered the country 40 years ago, at the height of the agrarian reform. They were stored in sheds without protection of any kind and the adjoining communities were therefore in contact with them. The effects of these wastes can last 30 years or more in water and soil and are harmful to all forms of life.

Complainants: Ana Elisa Osorio, Minister of the Environment and Natural Resources. Norberto Rebolledo, MARN. Jorge Toussaint, toxicologist.

Bodies responsible: Previous Governments.

Pollutants: Organic chlorates and organic phosphates, DDT, lead arsenate, toxaphene, aldrin, simazene, chlordane, lindane, endrin, etc.

12. **Place: La Arreaga I, Los Haticos, Maracaibo, Zulia State.**

Facts: Environmental authorities inspected warehouses belonging to the former Gustavo Zingg company which had been abandoned for about three years, where they found about 300 casks containing substances which may be considered toxic wastes, plus two ponds with chemicals. The resin fumes can cause explosive mixtures in air. Inhaling it or coming into contact with it can cause irritations and burn the skin and eyes. It may produce irritating, corrosive and toxic gases. The fumes may cause nausea and suffocation. Some of the substances may cause cancer. Neighbours report that, for some time, they have had nausea, burning lips and sore throats because of the strong smell in the air. There were holes in some of the warehouse walls that allowed children to get inside. Various persons handled the casks .

Complainant: Freddy Rodríguez, MARN.

Body responsible: Not specified. Probably the warehouse owners.

Pollutants: Resin solution, sodium sulphide, chlorhydric acid (purity 70 per cent), dimethyl formamide, chromium.

13. **Place: Simón Planas municipality, Lara State.**

Facts: Pollution of the Simón Planas aquifer as a result of the leakage of 350,000 litres of unleaded gasoline.

Complainant: Mirla Coronado, MARN.

Body responsible: PDVSA.

Pollutant: Unleaded gasoline.

14. **Place: Santa Cruz de Mara, Ricaurte parish, Mara municipality, Zulia State.**

Facts: Oil slick along 6-9 km of coastline. Residents of the area say that they have had the same problem three times in one year. These oil slicks kill fish and other marine life. The beaches at La Trinidad, Las Palmeras, Santa Fe, Enelven and Los Coquitos are affected. Coconut trees and mangroves near the Guasare coal plant loading dock are also affected.

Complainants: Pedro Cols and Rosmel Salas.

Body responsible: PDVSA.

Pollutant: Oil.

15. **Place: El Puente sector, Lagunillas, Zulia State.**

Facts: A pool of sludge mixed with hydrocarbon wastes suddenly spilled onto the patios of two houses. It is assumed to be mud with oil wastes which came to the surface as a result of the pressure of gases produced by oil drilling at a nearby well. The neighbouring plant emits thick smoke mixed with steam.

Complainants: Gloria Alvarado and Juan Carlos González.

Body responsible: PDVSA.

Pollutant: Petroleum products.

16. **Place: El Pao, Bolívar State.**

Facts: While the property belonging to the company was being dismantled, a large tank containing diesel wastes was emptied into a pool supplying the treatment plant. The residents have drunk water that tastes of gasoline and this has caused liver and stomach problems, particularly in children. The most harmful effects become apparent in the medium term. Coconut trees and mangroves near the Guasare coal plant loading dock are also affected.

Complainants: Pedro Cols and Rosmel Salas.

Body responsible: PDVSA.

Pollutant: Oil.

B. Governmental and non-governmental organizations

24. The Special Rapporteur continued her close cooperation with the secretariat of the Basel Convention. She met with the Executive Secretary, Mrs. Sachiko Kuwabara-Yamamato, in Rabat and informed her about her mandate and her expectations for continued cooperation with the secretariat. She regularly received documents from the secretariat. However, she is still waiting for a reaction to the letters addressed to the secretariat inviting its comments on specific issues and cases of interest to her mandate.

25. Basel Action Network (BAN), which monitors the international dumping of toxic wastes and products and the transfer of toxic technologies, welcomed the adoption of the resolution renewing the mandate of the Special Rapporteur and the expansion of the mandate to include the transfer of toxic industries. For BAN, it is extremely important that the international community continue to examine the impact of toxic trade from the standpoint of both the environment and human rights. With the impetus of unbridled free trade, toxic wastes, products and technologies, including the migration of the world's most dangerous and polluting industries, are now following a path of least resistance. The horrific result is a situation where the poorest of the poor are the recipients of the hazards and poisons of the rich.

26. BAN considered the reference to waste-recycling to be crucial as it was well known that virtually all actual or intended hazardous waste exports from rich to poor countries are now justified under the name of recycling. The so-called recycling was either a complete sham or involved some of the world's most dangerous and polluting industries, such as ship-breaking and mercury- and lead-waste recycling. Additionally, much of what was shipped as recyclable waste, such as plastics and computer scrap, was unrecyclable and simply dumped in the environment and communities of developing countries. It was a global tragedy that, rather than providing developing countries with the means to avoid the mistakes they had themselves made in the past, northern industrialized powers were all too willing to clean up their own backyards by simply moving the world's dirtiest industries, toxic wastes and unsafe products to the developing world. It is hoped that this United Nations effort will shed more light on the human costs of this form of toxic globalization.

27. The Special Rapporteur has received from Europe-Third World Centre (CETIM) information and an evaluation of the results of the most recent sessions of the Commission and Sub-Commission. She has also received the acts and conclusions of the seminar organized by CETIM and the American Association of Jurists at Céligny (Switzerland) on 4 and 5 May 2001 on the subject "The activities of transnational corporations: the need for a legal framework".

28. The Natural Heritage Institute has sent the Special Rapporteur a series of documents on the Institute's activities in connection with the question of the environment and toxic products. Her attention was drawn, in particular, to research projects undertaken concerning the following studies conducted jointly with Human Rights Advocates: *Oil development in the Caspian: a critical investigation of California oil companies in Azerbaijan and Kazakhstan* and *Oil development in Nigeria: a critical investigation of Chevron Corporation's performance in the Niger River Delta.* Another study concerns *The critical need to address children's environmental health problems.*

29. The Special Rapporteur was informed that Friends of the Earth is planning to organize a corporate accountability strategy meeting just before the beginning of the Preparatory Committee for the World Summit on Sustainable Development and to campaign for the launch of negotiations on a binding corporate accountability convention at the World Summit in Johannesburg in September 2002.

30. The Special Rapporteur has been informed about two papers written by a member of the National Black Environmental Justice Network and director of the Environmental Justice Resource Center at Clark Atlanta University, United States of America: "It's not just, pollution", in *Our Planet* magazine, devoted to poverty, health, and the environment (UNEP, September 2001)[2] and "Confronting Environmental Racism in the Twenty-first Century", one of the Racism and Public Policy Papers published by the United Nations Research Institute for Social Development (UNRISD) for the UNRISD Conference on Racism and Public Policy held in Durban, South Africa, in September 2001 in the context of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.[3]

III. NEW CASES

31. Case 2002/ 66 consists of information submitted by the Government of Venezuela (see sect. II).

IV. FOLLOW-UP OF CASES

32. The following update of previous cases was received by the Special Rapporteur during the period under consideration. For ease of reference, the cases carry the same numbering order in which they appeared in document E/CN.4/2001/55/Add.1.

Case 2000/58 - USA/Paraguay

33. At its fifty-seventh session, the Commission on Human Rights heard a statement by a priest representing the village affected by the dumping of toxic waste by Delta and Pine, and by the Paraguay 2000 Association. The Special Rapporteur received a new communication from this association inviting the United Nations to organize an investigation of the case in order to trigger a reaction from the Government. The Special Rapporteur has also received a message from an NGO requesting her to undertake an in situ mission to assess the situation and expedite long-overdue solutions.

Case 2000/59 - Panama/USA

34. On 2 April 2001, the Special Rappporteur had a meeting with the Director-General of International Organizations at the Ministry of External Relations of Panama, at his request, with a view to updating her on the case reflected in her report concerning the clearing by the United States of America of military waste (ordnance residues and toxic waste covering a wide area of Panamanian territory) from the Canal Zone. The Special Rapporteur was provided with documents and diskettes containing pictures of the affected sites, and was asked to use her good offices in finding appropriate solutions to the problem with the United States authorities.

Cases 1999/45 and 1999/52 - United States/Costa Rica

35. The Government of Costa Rica addressed a detailed report to the Special Rapporteur providing background information on the historical and legal contexts within which various kinds of pesticides were used in the banana plantations in Costa Rica. The report was in connection with the analysis contained in the Special Rapporteur's report to the fifty-seventh session of the Commission E/CN.4/2001/55/Add.1. The Special Rapporteur looks forward to receiving updated information on the settlement of the Nemagon cases and the outcome of those that are still pending before the courts in the United States of America.

Case 1997/20 - USA/Puerto Rico/Iraq/Yugoslavia

36. Several inhabitants of the Lehigh Valley, Pennsylvania, United States of America, addressed a communication to the Secretary-General of the United Nations requesting a full investigation into the use by the United States of depleted uranium (DU) weapons in Vieques island, Puerto Rico, in Iraq (the Persian Gulf) and in the former Yugoslavia. They appealed to the international community for an immediate isolation and containment of DU weapons and waste, the reclassification of DU as a radioactive and hazardous substance, the clean-up of existing DU contaminated areas, comprehensive efforts to prevent human exposure and medical care for those who had been exposed.

Case 2001/64 - Canada/Honduras

37. On 19 May 2001, a second communication was addressed to the Special Rapporteur by a resident of Dawson Creek, Canada. The author wrote out of concern about the environmental degradation and the contamination of soil and water by the mining companies in Honduran communities. This had caused further health risks to the local population and eviction from their lands. The writer requested that the human rights of the local population be given priority and that immediate measures be taken to bring to an end illegal mining procedures and techniques by the mining companies.

Case 1999/41 - Netherlands/ China /Haiti

38. On 30 October 2001, the Special Rapporteur received a phone message from the General Prosecutor of the Netherlands, informing her that an agreement had been reached with the families of the Haitian victims in their dispute with the Dutch Company Vos BV. The details of the agreement were not transmitted to the Special Rapporteur, who looks forward to examining those details in her future reports. The case concerned the contamination of a paracetamol syrup by impure glycerine resulting in the death of at least 88 children in Haiti between 1997 and 1998.

V. COOPERATION WITH HUMAN RIGHTS TREATY BODIES

39. Pursuant to Commission resolution 2000/86 calling for closer cooperation between thematic special rapporteurs of the Commission and relevant human rights treaty bodies, the Special Rapporteur took part in the annual meeting in Geneva held from 18 to 22 June 2001.

She made a statement concerning the content of her report, the objectives of her mandate and the possibilities for mutual cooperation. She has also addressed letters to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights calling their attention to case 1999/41 (previous paragraph) in the context of the Committee's consideration of the periodic reports submitted by the Netherlands and Germany.

VI. CONCLUSIONS AND RECOMMENDATIONS

40. In her previous reports, the Special Rapporteur has presented a series of analyses on major trends, the characteristics of illicit traffic, transnational corporations and effects on the enjoyment of human rights. Similarly, she has discussed the basic principles, standards and instruments which should be put into effect in order to ensure - at the national, regional and international levels - effective action to combat the illegal transfer of, and illicit traffic in, toxic wastes and products which are harmful to the life, health and other rights of the individual and to the environment. In the absence of new elements, and being unable to exploit the substantive reports and documents received through lack of human and financial resources, the Special Rapporteur can at this stage only reiterate her previous conclusions and recommendations, while emphasizing the following points.

41. The seriousness of the problems relating to the question of pesticides and POPs. All observers agreed that this is a major problem which should be given priority. Recently (May 2001), the Food and Agriculture Organization of the United Nations (FAO) published an alarming report stating that the volume of pesticide wastes endangering the population and the environment was five times higher than had been estimated two years before. FAO states that approximately 500,000 tonnes of expired or banned pesticides or pesticides withdrawn from sale have accumulated in fields, agricultural land and villages all over the world and are contributing to the poisoning of soil and water.

42. The First Continental Conference for Africa on the Environmentally Sound Management of Unwanted Stocks of Hazardous Wastes and their Prevention showed the extent of the problem in Africa and enabled the continent's needs to be evaluated. The Special Rapporteur appeals for adequate financial contributions to enable the action programme adopted by the Conference to be put into effect.

43. The adoption of international conventions such as the Rotterdam Convention and the Stockholm Convention constitute remarkable advances. However, the conventions contain lacunae which prevent effective action to combat clandestine transfers, and to prosecute and punish traffickers and corrupt dealers. In fact, the lacunae themselves may open the way to the "legal" transfer of products which may prove dangerous for humans and the environment and which must accordingly be considered to constitute unlawful transfers in the context of human-rights and environmental standards. Furthermore, these conventions omit any reference to victims, who are refused access to information and have no or few means of recourse. Lastly, these instruments are not ratified by a large number of States and are not always effectively implemented, either through lack of political will or through lack or absence of technical, administrative, legal, human and financial control measures.

44. The role, place and importance of transnational corporations in activities liable to give rise to unlawful movements and spillages of toxic products and wastes, and consequently the need to make these corporations subject to an international code of conduct that makes them responsible for their reprehensible acts, permits the prosecution and punishment of such acts, opens the way to compensation, redress and rehabilitation of victims, and enables environmental damage to be remedied.

45. The need to combat impunity and to provide victims with effective remedies, together with just and equitable redress.

46. On the question of communications, the Special Rapporteur notes that the number of complaints brought to her attention cannot serve as a parameter for evaluating the problem, analysing major trends or drawing conclusions, for the following reasons: first the mandate is not known to all the victims who might wish to transmit complaints; secondly, there is a definite reluctance, including on the part of Governments, to reveal cases of unlawful transfer in order to conceal internal dysfunction, avert social tension and avoid discouraging investment; thirdly, and by definition, unlawful transfers are a clandestine area where the withholding of information is acceptable; and lastly, the disastrous effects of the use of a toxic product are often felt only in the long term, when the victims have dispersed or disappeared and the evidence has been destroyed.

47. The Special Rapporteur thanks the States and organizations which have kindly submitted information under more than one heading. Thus, the dossier submitted by Venezuela shows the strength of feeling about the question of toxic wastes and the environment in that country. It provides information on the existence of an ombudsman authorized to deal with the problem and the option given to victims, their assigns or any other person having an interest to initiate a complaint procedure.

48. The Special Rapporteur notes with interest the amicable settlement reached in the Netherlands in the case of the Haitian children (case 1999/41), but does not intend to comment on this settlement until she learns of its content. At the same time, she notes with satisfaction that many attempted illegal exports of wastes to European countries and developing countries have been blocked through preventive or remedial action on the part of the Netherlands authorities. The Special Rapporteur encourages States to report their national experience.

49. The Special Rapporteur reiterates the importance of field missions as an irreplaceable means of learning about the experience of a particular country or region, discussing with the national authorities mandate-related questions, and specific cases concerning them, gathering information at first hand and meeting representatives of civil society.

Notes

[1] The press clippings were the following:

1. Impact: National Assembly's Environment Committee continues inspections in Zulia. Water in Jesús Maria Semprún polluted by oil, *Panorama*, Maracaibo, 12 June 2001. p. 1-4.

2. Origin unknown: 200 m^2 filled with mineral wastes in Santa Cruz, *El Siglo*, Maracay, 16 June 2001, p. A20.

3. Illegal dump located in El Guaril, Santa Cruz. National Guard seizes toxic barrels, *El Aragueño*, Maracay, 19 June 2001, p. 35.

4. National Guard seizes 12 barrels containing dangerous wastes dumped in El Guaril, used as illegal sanitary landfill in Lamas municipality. "Terror casks", *El Periodiquito*, Maracay, 19 June 2001, p. 7.

5. Governor Guillermo Call: PDVSA must pay compensation for environmental damage to the San Juan sewerage system, *El Sol de Maturín*, 20 June 2001, p. 4.

6. El Guaril children helpless in face of threat of barrels containing chemical wastes. Toxic fill, *El Periodiquito*, Maracay, 21 June 2001.

7. Totally abandoned. Toxic wastes from companies cause ecological chaos in the community of Cambalache, *Nueva Prensa de Guayana*, 27 June 2001, p. 1D.

8. Tía Juana: origin of crude oil being investigated. Oil slick on lake affecting artisanal fishermen, *Panorama*, Maracaibo, 28 June 2001, p. 1-7.

9. Aragua. Toxic waste dumps discovered, *Panorama*, Maracaibo, 4 July 2001, p. 1-11.

10. Güere industrial area in Mariño. National Guard searches shed where more than 5,000 death casks are found, *El Siglo*, Maracay, 5 July 2001, p. D32.

11. Congressman Orlando Rivero reports: Special Prosecutor requested to investigate toxic pits in Aragua, *El Aragueño*, Maracay, 12 July 2001, p. 15.

12. Rain more than dump can handle. Overflow from pit pollutes Orituпano river, *La Prensa de Anzoátegui*, Barcelona, 13 July 2001, p. 4.

13. Ever-present danger. Tons of toxic waste in port, *Panorama*, Maracaibo, 16 July 2001, p. 1-1.

14. Toxic wastes to be eliminated, *El Nuevo País*, Caracas, 17 July 2001, p. 4.

15. Sucre-Lamas. Monitoring of access would prevent unchecked dumping of industrial wastes, *El Siglo*, Maracay, 17 July 2001, p. B20.

16. In the Cabimas urban area. National Guard inspects company on environmental offence, *El Regional*, Cabimas, 19 July 2001, p. 3.

17. "Death casks" in Aragua, Carabobo and Trujillo. Over 10,000 drums containing toxic wastes have been contaminating three states for the past 40 years; *El Nacional*, Caracas, 20 July 2001, p. C2.

18. National Executive prepared to eliminate environmental liabilities maintained for 40 years. MARNR to invest 3.7 million to eliminate death casks, *El Aragueño*, Maracay, 20 July 2001, p. 5.

19. Authorities inspect Gustavo Zingg warehouse. Toxic wastes stored in Los Haticos may be carcinogenic, *La Verdad*, Maracaibo, 28 July 2001, p. D8.

20. One thousand six hundred "death casks" accounted for in Camatagua, *El Nacional*, Caracas, 31 July 2001, p. C3.

21. Maracaibo: water stored in Gustavo Zingg tannery casks. Seven hundred families in Los Haticos contaminated by toxic wastes, *Panorama*, Maracaibo, 1 August 2001, p. 1-1.

22. Affected by the toxic product stored in casks. Residents of Los Haticos suffer from nausea, burning lips and sore throats, *La Verdad*, Maracaibo, 1 August 2001, p. D3.

23. Toxic wastes: residents of La Arreaga are afraid. Demand speedy transfer, *Panorama*, Maracaibo, 2 August 2001, p. 1-12.

24. Residents helped by toxicologists, firemen and PMM. Those affected to be evaluated tomorrow, *Panorama*, Maracaibo, 2 August 2001, p. 1-12.

25. Toxic wastes: many people in Los Haticos swam in the polluted part of the lake. "Skin diseases caused by lake water", *Panorama*, Maracaibo, 13 August 2001, p. 1-7.

26. Sent by the Government: environmental experts analyse Simón Planas case, *El Impulso*, Barquisimeto, 25 August 2001, p. D3.

27. Mara: PDVSA investigates origin of spill. Crude oil slick along 2.5 km of coastline, *Panorama*, Maracaibo, 26 August 2001, p. 1-3.

28. Oil spill: National Assembly's Environment Committee visited affected area yesterday: crude oil still reaching Mara coast, *Panorama*, Maracaibo, 27 August 2001, p. 1-5.

29. Dead animals covered in crude oil wash up on coast. National Assembly's Environment Committee to ask PDVSA [Petróleo de Venezuela] authorities in Zulia for explanations, *La Verdad*, Maracaibo, 27 August 2001, p. D4.

30. Seventy persons working on clean-up. Oil spill on Zulia coast covers 8 kilometres, *El Universal*, Caracas, 28 August 2001, p. 2-4.

31. Strange lake formed in El Puente yesterday. Toxic wastes run into Lagunillas houses, *El Regional*, Cabimas, 31 August 2001, p. 5.

32. Board member Estanislao Gutiérrez complains: Simón Planas population may be drinking water containing cancer-causing substances, *El Informador*, Barquisimeto, 8 September 2001, p. A3.

33. El Pao. Residents accuse Ferrominera of lake pollution, *Correo del Caroní*, Ciudad Guayana, 13 September 2001, p. D5.

[2] See *www.ourplanet.com/imgversn/122/bullard.html*.

[3] All the papers are available at the UNRISD web site, *www.unrisd.org*.